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HIGH COURT OF JUDICATURE AT BILASPUR: CHHATTISGARH

Single Bench : Hon'ble Shri H.L. Dattu, CJ.

Writ Petition No. 2530 OF 2004

Petitioner Dr. Sudha Pandey, W/o. Late Dr. V.K. Pandey, Aged about 59 years, R/o. MIG 18, Nehru Nagar, Bilaspur (C.G.)

Vs.

Respondents

1. State of Chhattisgarh, through its Secretary, Department of Public Health and family welfare, D.K.S. Bhawan, Raipur, Raipur (C.G.)
2. State of Madhya Pradesh, Through its Secretary, Department of Public Health & Family Welfare, Vallabh Bhawan, Bhopal- (M.P.)
3. The Director, Public Health & Family Welfare Department, Bhopal- (C.G.)
4. The Chief Medical Officer/Civil Surgeon, Jabalpur (M.P.)
5. Dy. Director, Public Health & Family Welfare Department, SEONI (M.P.)

Present: Shri P.K. Bhaduri, counsel for the petitioner.

ORAL ORDER
(Passed on 22nd March, 2007)

The petitioner Dr. Sudha Pandey is the wife of original petitioner Dr. V.K.Pandey, who died during the pendency of this writ petition. By order dated 12-7-2006, the present petitioner who is the legal representative of the deceased petitioner, has been brought on record. The deceased petitioner Dr. V.K.Pandey was a Government Servant. He worked as a Doctor in different places. It appears that he tendered his resignation sometime in the month of November, 1973. After lapse of a month, he went before the authorities requesting them to permit him to withdraw his resignation. It was his case that for the first time on 16.6.1988, the respondents have communicated to the petitioner that they have accepted his resignation.

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(2) Aggrieved by the order so passed by the respondents on 16.6.1988, the deceased petitioner Dr. V.K.Pandey had approached the State Administrative Tribunal by filing an application O.A. No.456/88. The Tribunal has disposed of the application by its order dated 27.04.98. In that, the Tribunal has observed as under:

> "Therefore, since due to absolute inaction lethargy or may even be incompetence of the then officials of the department concerned the acceptance of resignation of the petitioner could not be communicated to the petitioner prior to issuance of letter dated 16.6.1988 and prior to it the petitioner had withdrawn the said resignation tendered by him on 12.12.73 through notice dated 12.7.87. The said resignation could not have been accepted as on account of withdraw of the said resignation there had remained nothing to be accepted. Nevertheless, since the petitioner had remained absent from his duties for about fifteen years he can not be permitted to join his duties unless he applies for leave for the said period of about 15 years or more being granted to him and the said leave, if at all, is granted to him by His Excellency the Governor of Madhya Pradesh."

(3) In this petition filed under Articles 226/227 of the Constitution of India, the only relief that is sought for is as under :

> "Respondents be directed to pay the petitioner the due arrears of salary and other consequential benefits from 1st August 1972 till his date of retirement."

(4) One of the principles for issuing a writ of mandamus is that the petitioner before approaching this Court, should approach the respondents by making an appropriate application/representation and if for any reason, that application/representation is not considered by the respondents within a reasonable time, she may approach this Court for appropriate relief.

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(5) In the instant case, before approaching this Court for the relief sought in this petition, the petitioner at no point of time had approached the respondents for grant of the aforesaid relief. Therefore, in my opinion, the writ petition filed by the petitioner is wholly premature. Accordingly, I decline to entertain this writ petition. However, I grant liberty to the petitioner, if she so desires, to go before the appropriate authorities for appropriate relief. Ordered accordingly.

Sd/-
Chief Justice